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OFFICE OF PETITIONS

In re Application of :
John Merrow DAVIES et al. :
Application No. 09/998,613 : DECISION ON PETITION
Filed: November 30, 2001 :
Attorney Docket No. 21-019 ITW 20577 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 07, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed August 09, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 12, 2006. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a corrected appeal brief; (2) the petition fee of 1,500; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Non-Compliance of August 09, 2006 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. *See* 37 CFR 10.18(b) and *Changes to Patent Practice and Procedure*; Final Rule Notice, 62 *Fed. Reg.* 53131, 53178 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 2162 for appropriate action on the concurrently filed corrected appeal brief.

A handwritten signature in black ink, appearing to read "Michelle R. Eason", with a stylized flourish at the end.

Michelle R. Eason
Paralegal Specialist
Office of Petitions